IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 506 OF 2004

Mr. Pradeep Virginkar,
major of age, r/o
Ravanfond, Aquem
Baixo, Navelim,
Salcete, Goa. ... Petitioner.

Versus

Mr.Luis D'Souza, major
of age, c/o Swastic
Metal Mart, Masjid Road,
Salcete, Goa. ... Respondent.

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, advocate for the petitioner.

Mr. N. N. Sardessai, advocate for the respondent.

CORAM : R. M. LOHDA, J.

DATE : 25th August, 2005.

ORAL JUDGMENT

Rule.

Mr. N. N. Sardessai, learned advocate for the respondent waives service. Rule returnable forthwith.

2. Heard Mr. S. D. Lotlikar, the learned Senior Counsel for the petitioner and Mr. N. N. Sardessai, the learned advocate for the respondent.

3. Save and except the contention of the learned Senior Counsel that the decree-holder was entitled to possession of the plot ad measuring 27 metres x 13 metres only, I find that there is no merit in the Writ Petition. In the plaint the respondent (plaintiff-decree-holder) claimed possession of the suit plot ad measuring 27 metres x 13 metres. The decree was passed to that effect. Obviously, in the execution of the decree, the area of the plot could not have been increased by the Executing Court from 27 metres x 13 metres to 29 metres x 13 metres. The learned counsel for the respondent - decree-holder fairly concedes that in the impugned order the portion AB be read - 27 metres and portion DC be read - 27 metres. I accept this statement of the learned counsel for the respondent - decree-holder and the impugned Order dated 29th June, 2004 shall stand modified accordingly.

4. Rule is disposed of in the aforesaid terms. No costs.

R. M. LODHA, J.

mc.